

Appl. No.: 09/005,318
Amdt. Dated May 25, 2007
Reply to Office Action of November 28, 2006

REMARKS/ARGUMENTS

Claims 42, 52, 54-60, 62-65, 67-69, 73, 76, and 81 have been rejected. Claims 64 and 65 have been cancelled without prejudice to or disclaimer of the subject matter encompassed thereby in order to further prosecution of this application. Applicants expressly reserve the right to file continuing applications or take other such appropriate measures to seek protection for the inventions encompassed by the cancelled subject matter.

Claims 42, 52, 54-60, 62-63, 67-69, 73, 76, and 81 are currently pending in the application. Reexamination and reconsideration of the claims are respectfully requested in view of the following remarks. The Examiner's comments in the Office Action dated November 28, 2006 are addressed below in the order set forth therein.

The Obviousness-Type Double Patent Rejections Should Be Withdrawn

Claims 42, 52, 54-60, 62-65, 67-69, 73, 76, and 81 have been rejected under the judicially created doctrine of obviousness-type double patenting over claims in U.S. Patent Nos. 6,440,419 and 7,022,309 and U.S. Patent Application Serial Nos. 08/782,481 and 11/324,947. U.S. Patent Application Serial No. 08/782,481 has been abandoned. Applicants file concurrently herewith a terminal disclaimer in compliance with 37 C.F.R. 1.321(c) disclaiming any patent term beyond the terms of U.S. Patent Nos. 6,440,419 and 7,022,309 and any patent issuing from U.S. Patent Application Serial No. 11/324,947. Accordingly, these rejections have been overcome.

The Objection to the Claims Should Be Withdrawn

The Examiner has objected to claims 64 and 65. As described above, claims 64 and 65 have been cancelled. Accordingly, this objection has been obviated and should be withdrawn.

Appl. No.: 09/005,318
Amdt. Dated May 25, 2007
Reply to Office Action of November 28, 2006

CONCLUSION

In view of the aforementioned amendments and remarks, Applicants respectfully submit that the objections to the claims have been obviated, and that the rejections of the claims for obviousness-type double patenting are overcome. Accordingly, Applicants submit that this application is now in condition for allowance. Early notice to this effect is solicited.

It is not believed that extensions of time or fees for net addition of claims are required. However, in the event that extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. §1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,

/edward r. ergenzinger/

Edward R. Ergenzinger
Registration No. 47,549

Customer No. 00826
ALSTON & BIRD LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000
Tel Raleigh Office (919) 862-2200
Fax Raleigh Office (919) 862-2260

ELECTRONICALLY FILED USING THE EFS-WEB ELECTRONIC FILING SYSTEM OF THE UNITED STATES PATENT & TRADEMARK OFFICE ON May 25, 2007.